

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SKYE ASTIANA,

Plaintiff,

v.

BEN & JERRY'S HOMEMADE, INC.,

Defendant.

No. C 10-4387 PJH

**ORDER VACATING HEARING DATE**

Plaintiff filed this action on September 29, 2010, and defendant filed a motion to dismiss the complaint for failure to state a claim on November 24, 2010. On December 8, 2010, plaintiff filed a first amended complaint. See Fed. R. Civ. P. 15(a)(1)(B) (party may amend pleading once as a matter of course within 21 days after service of motion under Rule 12(b)). In view of the filing of the amended complaint, the court VACATES the December 29, 2010 hearing date.

Defendant shall withdraw the pending motion to dismiss the original complaint, and may file either an answer or a motion to dismiss the first amended complaint, within the time allowed under the Federal Rules.

**IT IS SO ORDERED.**

Dated: December 15, 2010



PHYLLIS J. HAMILTON  
United States District Judge